

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
FEBRUARY 1, 2000 - 7:00 P.M.**

ROLLCALL Answering rollcall were Members Faust, Hovland, Kelly, and Mayor Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Hovland and seconded by Member Kelly approving the Council Consent Agenda as presented.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETINGS OF JANUARY 18, 2000, APPROVED** Motion made by Member Hovland and seconded by Member Kelly approving the Minutes of the Regular Meeting of January 18, 2000.

Motion carried on rollcall vote - four ayes.

***HEARING DATE SET FOR PLANNING MATTERS** Motion made by Member Hovland and seconded by Member Kelly setting February 15, 2000, for the following planning matters:

1. Final Rezoning for Haugland Company Tracts A & B, RLS #1378, Hennepin County, Construct Retail Building;
2. Final Development Plan for Fairview Southdale Hospital, 6401 France Avenue South, Building Expansion and Parking Ramp Construction;
3. Preliminary Rezoning and Plat for Frauenshuh Companies, Northeastern Quadrant of Highway 169 and 494, Construct New Office Building; and
4. Conditional Use Permit, Our Lady of Grace, 5071 Eden Avenue, Building Expansion.

Motion carried on rollcall vote - four ayes.

***RESOLUTION 2000-16 APPROVING LOT DIVISION FOR 5548-5550 MALIBU DRIVE (JOHN PRINS)** Member Hovland introduced the following resolution, seconded by Member Kelly:

**RESOLUTION NO. 2000-16
APPROVING LOT DIVISION FOR
5548-5550 MALIBU DRIVE**

WHEREAS, the following described tract of land, Lot 27, Block 1, INTERLACHEN HILLS 3RD ADDITION, is requested to be divided into two tracts of land:

PARCEL A:

That part of Lot 27, Block 1, INTERLACHEN HILLS 3RD ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota lying northeasterly of the following described line:

Commencing at the most northerly corner of said Lot 27, Block 1; thence on an assumed bearing of South 45 degrees, 58 minutes, 13 seconds West, along

the northwesterly line thereof, a distance of 64.86 feet to the point of beginning of the line to be described; thence South 43 degrees 34 minutes 35 seconds East a distance of 146.95 feet to the southeasterly line of said Lot 27, said line being the northwesterly right-of-way line of Malibu Drive, and said line there terminating.

PARCEL B.

That part of Lot 27, Block 1, INTERLACHEN HILLS 3RD ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota lying southwesterly of the following described line:

Commencing at the Northwest corner of said Lot 27, Block 1; thence on an assumed bearing of South 45 degrees 58 minutes 13 seconds West, along the northwesterly line thereof, a distance of 64.86 feet to the point of beginning of the line to be described; thence South 43 degrees, 34 minutes, 35 seconds East a distance of 146.95 feet to the East line of said Lot 27, said line being the northwesterly right of way line of Malibu Drive, and said line there terminating.

WHEREAS, it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said Parcels as separate tracts of land do not interfere with the purposes of the Subdivision and Zoning Regulations as contained in the City of Edina Code Sections 810 and 850.

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the second above described Parcels as separate tracts of land is hereby approved and the requirements and provisions of Code Sections 850 and 810 are hereby waived to allow said division and conveyance thereof as separate tracts of land, but only to the extent permitted under Code section 810 and Code Section 850 and subject to the limitations set out in Code Section 850 and said ordinances are not waived for any other purpose or as to any other provisions thereof, and further subject, however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent ordinances of the City of Edina or with the prior approval of this Council as may be provided for by those ordinances.

Dated this 1st day of February, 2000.

Motion carried on rollcall vote - four ayes.

*RESOLUTION 2000-17 APPROVING LOT DIVISION FOR 5544-5546 MALIBU DRIVE (JOHN PRINS) Member Hovland introduced the following resolution, seconded by Member Kelly:

RESOLUTION NO. 2000-17
APPROVING LOT DIVISION FOR
5544 AND 5546 MALIBU DRIVE

WHEREAS, the following described tract of land, Lot 26, Block 1, INTERLACHEN HILLS 3RD ADDITION, is requested to be divided into two tracts of land:

PARCEL A:

That part of Lot 26, Block 1, INTERLACHEN HILLS 3RD ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota, lying northerly of the following described line:

Commencing at the Northwest corner of said Lot 26, Block 1; thence on an assumed bearing of South 8 degrees, 13 minutes, 15 seconds West, along the West line thereof, a distance of 56.00 feet to the point of beginning of the line to be described; thence South 82 degrees, 36 minutes, 52 seconds East a distance of 127.83 feet to the East line of said Lot 26, said line being the westerly right of way line of Malibu Drive, and said line there terminating.

PARCEL B:

That part of Lot 26, Block 1, INTERLACHEN HILLS 3RD ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota lying southerly of the following described line:

Commencing at the Northwest corner of said Lot 26, Block 1; thence on an assumed bearing of South 8 degrees, 13 minutes, 15 seconds West, along the West line thereof, a distance of 56.00 feet to the point of beginning of the line to be described; thence South 82 degrees, 36 minutes, 52 seconds East a distance of 127.63 feet to the East line of said Lot 26, said line being the westerly right of way line of Malibu Drive, and said line there terminating.

WHEREAS, it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said Parcels as separate tracts of land do not interfere with the purposes of the Subdivision and Zoning Regulations as contained in the City of Edina Code Sections 810 and 850.

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the second above described Parcels as separate tracts of land is hereby approved and the requirements and provisions of Code Sections 850 and 810 are hereby waived to allow said division and conveyance thereof as separate tracts of land, but only to the extent permitted under Code section 810 and Code Section 850 and subject to the limitations set out in Code Section 850 and said ordinances are not waived for any other purpose or as to any other provisions thereof, and further subject, however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent ordinances of the City of Edina or with the prior approval of this Council as may be provided for by those ordinances.

Dated this 1st day of February, 2000.

Motion carried on rollcall vote - four ayes.

ORDINANCE NO 2000-1 ADOPTED, AN ORDINANCE REPLACING SECTION 1340 WITH SECTION 1341 - PHYSICAL CULTURE AND HEALTH SERVICES AND CLUBS

Chief Siitari noted that Council expressed concern over a potential inability to verify the revenues of businesses requesting an exemption from licensing when they granted first reading to the ordinance amendment eliminating individual licenses for massage therapists. He said language had been added that staff believes adequately addresses their concern. The new language allows the City to require a certification from a Certified Public Accountant thus corroborating the validity of exemption requests.

Member Hovland made a motion granting second reading to Ordinance No. 2000-1 as follows:

**EDINA ORDINANCE NO. 2000-1
AN ORDINANCE REPEALING SECTION 1340 OF THE CITY CODE
AND REPLACING IT WITH A NEW SECTION 1341 PHYSICAL CULTURE AND
HEALTH SERVICES AND CLUBS**

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. Section 1340 of the City Code is repealed in its entirety.

Section 2. The City Code is amended by adding a new Section 1341 as follows:

Section 1341 - Physical Culture and Health Services and Clubs

1341.01 Definitions. Unless the context otherwise clearly indicates, the following terms shall have the stated meanings:

Escort Service. Any business which provides male or female accompaniment services to its customers for a fee or other valuable consideration.

Massage. The rubbing, pressing, stroking, kneading, tapping, rolling, pounding, vibrating, or stimulating the superficial parts of the human body with the hands or any instrument by a person who is not duly licensed by the State to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry.

"Physical Culture and Health Services," "Physical Culture and Health Club," "Reducing Club," "Reducing Salon," "Massage Parlor." Any building, room, structure, place, or establishment used by the public other than a hospital, sanitarium, rest home, nursing home, boarding home or other institution for the hospitalization or care of human beings, duly licensed under the provisions of M.S. 144.50 through 144.703, inclusive, where non-medical and non-surgical manipulative exercises or massages are practiced upon the human body for a fee or other valuable consideration by anyone not duly licensed by the State to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, with or without the use of mechanical, therapeutic, or bathing devices.

Sauna Parlor. An establishment or business the principal use of which is the provision of a room or rooms used by the public for bathing, relaxing or reducing purposes utilizing steam or hot air as a cleaning, relaxing or reducing agent.

1341.02 Business License Required.

Subd. 1 Limiting Business Licenses. It is found and determined that the type of business activity subject to being licensed under this Section is particularly subject to abuse which may take a number of forms contrary to the morals, health, safety and general welfare of the community. Further, it is found that control of these abuses requires intensive efforts of the Police Department as well as other departments of the City. These efforts exceed those required to control and regulate other business activities licensed by the City. This concentrated use of City services tends to detract from and reduce the level of service available to the rest of the

community and thereby diminishes the ability of the City to promote the general health, welfare, morals and safety of the community. Therefore, the number of business licenses which may be in force under this Section at any one time shall not exceed four.

Subd. 2 Requiring License and Defining Businesses Operating within City. No person, partnership, corporation, or other organization shall operate a physical culture and health service or club, reducing club or salon, sauna parlor, massage parlor, or escort service within the City, either exclusively or in connection with any other operation or enterprise, unless such business is currently licensed under this Section. A business is operating within the City, regardless of whether the business premises are actually located within the corporate limits of the City, if the business premises serve as a point of assignment for employees who perform escort services within the corporate limits of the City, including, but not limited to, telephone referral business.

Subd. 3 Certain Businesses Exempt.

A. The preceding provisions of this Section notwithstanding, no business license shall be required for a business establishment which offers massage as an accessory use if it meets all of the following criteria as evidenced by affidavits and other documents submitted to and in form and substance reasonably acceptable to the Clerk:

1. The principal activity of the business shall not be a massage parlor, sauna parlor, or escort service.
2. The annual gross revenue of the business from performing massage is less than 25% of the total annual gross revenue of the business as shown by financial statements or an affidavit signed by the authorized Officer of the business. In lieu of delivery of the aforementioned affidavit, at the direction of the City, the business shall be required to deliver, a certification from a certified public accountant, acceptable to the Manager, that the annual gross revenue from massage services, for the preceding twelve months, is less than 25% of its total annual gross revenue for such period of time.
3. The room or rooms where massage is performed shall not have an exclusive entrance from or exit to the exterior of the building in which the principal business is located or to a public concourse or public lobby. Notwithstanding the foregoing, massage may be performed by an individual at the residence of the person receiving the massage.
4. All fees or other consideration derived from performing massage shall be received by and accounted for by the proprietor of the principal business.
5. All individuals performing massage in connection with the business shall be employees of the principal business or shall be independent contractors or agents who perform massage pursuant to a written agreement with the owner of the principal business.

B. Any business that requests an exemption from the business license requirement shall submit the required affidavits and documents on an annual basis. The exemption request shall be due on or before the first day of June of each year.

1341.03 License Application and Procedures. Every application for a license under this Section shall be made on a form supplied by the Clerk and shall be filed with the Clerk. The provisions of Section 160 of this Code shall apply to all licenses required by this Section and to the holders of such licenses. In addition to the information required by Section 160 of this Code, the application for a license under this Section shall contain the following information. Failure to complete or supply such information may cause a license to be denied.

A. Whether the applicant is a natural person, a partnership, a corporation, or other form of organization.

B. If the applicant is a natural person:

1. The true name, place and date of birth, current address and telephone number of the applicant.
2. Whether the applicant has ever used or has been known by a name other than the applicant's true name; and if so, such name or names and information concerning dates and places where used.
3. A specific statement as to the type and nature of the business to be licensed.
4. The name of the business, if it is to be conducted under a name other than the full individual name of the applicant, in which case a certified copy of the certification required by M.S. Chapter 333, shall be attached to the application.
5. The addresses at which the applicant has lived during the previous five years, including a statement of how long the applicant has been continuously a resident of the State during the period as of and immediately preceding the date of application.
6. The kind, name and location of every business or occupation in which the applicant has been engaged during the preceding five years.
7. The names and addresses of the applicant's employer(s) and partner(s), if any, who were such at any time during the preceding five years.
8. Whether the applicant has ever been convicted of any felony, crime, or violation of any provisions of this Code or State Law other than traffic violations and, if so, information as to the time, place and offense for which convictions were had.

C. If the applicant is a partnership:

1. The names and addresses of all partners and all information concerning each partner as is required of an applicant under paragraph B. of this Subsection.
2. The names(s) of the managing partner(s), and the interest of each partner in the business.
3. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to trade name under the provisions of M.S. Chapter 333, a certified copy of such certification shall also be attached.

D. If the applicant is a corporation or other organization.

1. The name of the applicant, and if incorporated, the state of incorporation.
2. A true Certificate of Good Standing, dated as of a current date, and true copies of the Articles of Incorporation or Association Agreement and Bylaws shall be attached to the application. If a foreign corporation, a Certificate of Authority issued pursuant to M.S. Chapter 303, shall also be attached.
3. The name of the person(s) who is to manage the business and all information concerning the person(s) as is required of an applicant under paragraph B. of this Subsection.
4. The names of all officers, directors and persons who control or own an interest in excess of 5% in such corporation or organization and all information concerning the persons as is required of an applicant under paragraph B. of this Subsection.

E. The location of the business premises.

F. Whether the applicant is licensed in other communities or has had a license revoked, or has been denied a license, to conduct any of the activities required to be licensed hereunder; and if so, when and where the applicant is or was so licensed, has had a license revoked or has been denied a license.

G. The names and addresses of those individuals to be employed by the applicant and who may work within the City.

H. The names, residences and business addresses of three residents of the County, not related to the applicant or financially interested in the business to be licensed, who may be referred to by the City for information as to the applicant's character. If the applicant is a partnership, three such names shall be supplied for each partner, and if the applicant is a corporation or other organization, three such names shall be supplied for each officer of the applicant and each manager of the business.

I. The amount of capital investment to be made by the applicant in the premises described in the application to operate the business to be licensed. Capital investment shall mean the amount of money that the applicant actually invests to acquire, refurbish, repair, remodel, or furnish the premises, including moneys invested to comply with Subsection 1341.14. This paragraph shall not apply to any applicant for a license to operate only an escort service.

J. A financial statement, certified as being true and correct by an independent accountant, showing the gross income of the business to be licensed for the last three fiscal years of such business, or shorter period of time that the applicant may have been in the business to be licensed, itemized as to each activity of the business including, without limitation, the gross income from performing massage.

1341.04 Execution of Application. All applications for any license under this Section shall be signed and verified by the oath of the applicant. If the application is that of a natural person, it shall be signed and verified by such person; if by a partnership, by all the partners; if by a corporation, by two of its officers, and if by an unincorporated association, by its manager or managing officer. Any falsification of information on any license application shall result in the denial of the license applied for, and shall constitute adequate grounds for the suspension or revocation of any license issued to the applicant.

1341.05 License and Investigation Fees.

Subd. 1 License Fee. Each application for a license or renewal license shall be accompanied by payment in full of the required license fee. The fee for a business license shall be as set forth in Section 185 of this Code. Upon rejection of any application for a license, the Clerk shall refund the amount paid.

Subd. 2 Investigation Fee. At the time of each original application for a business license, the applicant shall deposit an investigation fee as set forth in Section 185 of this Code. The cost of the investigation will be based on the expense involved. All deposit monies not expended on the investigation will be refunded to the applicant.

1341.06 Investigation. All applications shall be referred by the Clerk to the Police Department and to such other City departments for investigation of the applicant's character and verification of the facts set forth in the application. Within 60 days after the application date, the Police Chief and any other consultants shall submit a written recommendation to the Manager as to issuance or non-issuance of the license, setting forth the facts upon which the recommendation is based.

1341.07 Approval or Denial of Application. Within 90 days after the application date, the Manager shall either approve or deny the application and shall notify the Clerk in writing of the decision. If the application is approved, the Clerk shall issue the license. If the application is denied, the Clerk shall furnish written notice of the denial to the applicant, together with the reason or reasons for denial. In addition to the reasons set forth in Subsection 160.03 of this Code a license may also be denied for any of the following reasons:

Subd. 1 Under Legal Age. If an individual applicant is under the age of 18.

Subd. 2 Convictions. If the applicant, or any officers, managers, directors, shareholders or owners, if a corporation or association, or any partners, if a partnership, has been convicted of a felony, or has been convicted of any illegal conduct involving moral turpitude, dishonesty, fraud, deceit or misrepresentation.

Subd. 3 Conviction without Sufficient Rehabilitation. If the applicant, or any principal officers, managers, directors, shareholders or owners, if a corporation or association, or any partners, if a partnership, has been convicted of any crime or crimes directly relating to the occupation of massage and escort services, as provided in M.S. 364.03, Subd. 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation of massage or escort services, as provided in M.S. 364.03, Subd. 3.

Subd. 4 Prior Denial of License. If the applicant, or any principal officers, managers, directors, shareholders or owners, if a corporation or association, or any partners, if a partnership, has within one year prior to the date of application been denied a license under this Section, or any similar ordinance of any municipality within the State, or within the period has had revoked any license issued under this Section, or any similar ordinance of any municipality within the State.

Subd. 5 Zoning Restriction. If the business to be licensed is not permitted by Section 850 of this Code upon the premises described in the application.

Subd. 6 Failure to Meet Construction Requirements. If the premises described in the application for a business license fail to comply with the requirements of Subsection 1341.14.

Subd. 7 Capital Investment Less than \$10,000. If the applicant's planned capital investment in the premises described in the application to operate the business to be licensed is less than \$10,000. This paragraph shall not apply to any license application to operate only an escort service.

1341.08 Renewal Application. Not less than 30 nor more than 60 days before the expiration of any license issued pursuant to this Section, any license holder desiring to renew the license shall submit a written application to the Clerk on forms provided by the City together with payment in full of the license fee as required for the original license. The renewal application shall be forwarded to the Manager who shall, within 30 days after the renewal application date, either approve or deny the application and shall notify the Clerk in writing of the decision. The Clerk shall then issue the license or, in case of denial, notify the applicant in writing of the denial setting forth the reason or reasons therefor.

1341.09 Appeal to Council. Any applicant may appeal the denial of a license or a license renewal by filing a written notice of appeal to the Council in the Clerk's office within 10 days after the denial. The Council shall hear the appeal within 60 days after the notice is filed, and opportunity shall be given to any person to be heard in favor of or opposing the issuance or renewal of the license. The Council may order and conduct such additional

investigation as it deems necessary. Any licensee is authorized to continue to operate until final action by the Council upon licensee's renewal application, unless prohibited by Council resolution made after the denial.

1341.10 License Not Transferable; Duration. Each license shall be issued to the applicant only and shall not be transferable to another holder. Any change in the persons named as partners on the application, as required by paragraph C.1 of Subsection 1341.03 and any change in the persons who are named in the application as required by paragraph D.4 of Subsection 1341.03 shall be deemed a transfer for purposes of this Section. If the licensee is a limited partnership, a change in the limited partners of less than 25% cumulatively over the license period shall not be deemed a transfer. The change in or addition of a vice-president, secretary, or treasurer of a corporate licensee shall not be deemed a transfer. All licenses issued pursuant to this Section shall be effective from July 1 through June 30.

1341.11 Suspension or Revocation of License. The Council may suspend for any period not exceeding 60 days, or revoke, any license issued pursuant to this Section upon finding a violation of any provision of this Section or upon violation of any other provision of this Code or State Law or regulation affecting the activities covered by this Section. Any conviction for prostitution or any other crime or violation involving moral turpitude shall result in the revocation of any license issued under this Section. Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the Council shall be preceded by written notice to the licensee of a hearing. The notice may be served upon the licensee personally or by mailing it to the business or residence address set forth in the application or on file with the Clerk. The notice shall give at least ten days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may, without notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days.

1341.12 Hours of Operation. No business licensed under this Section shall be open for business, nor shall any persons or customers be permitted on the premises, between the hours of 10:00 P.M. and 7:00 A.M.

1341.13

Subd. 1 Notice of Change in Management. The individual designated by a partnership or a corporation in its business license application to be manager and in responsible charge of the business shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the license holder. The license holder shall promptly give the Police Department written notice of any such change indicating the name and address of the new manager and the effective date of the change.

Subd. 2 Clothing Requirements. Employees of businesses licensed under this section shall be and shall remain fully clothed while performing massage.

Subd. 3 Location of Services. No person shall perform a massage for a fee or other consideration at any place other than (i) a physical culture and health service, physical culture or health club, reducing salon, sauna parlor, or massage parlor that

has been duly licensed pursuant to Subd. 2 of Subsection 1341.02, (ii) a business which is exempt from a business license pursuant to Subd. 3 of Subsection 1341.02, or (iii) the residence of the person receiving the massage.

Subd. 4 No Services Allowed by Sexually Oriented Businesses. No person shall perform a massage for a fee or other consideration in connection with a Sexually Oriented Business as defined by Subsection 850.03 of this Code.

1341.14 Construction Requirements. No business license shall be issued under this Section for other than an escort service unless the premises used for the operation shall comply with the following requirements:

Subd. 1 Requirements for Steam or Hot Air Rooms. All rooms utilizing steam or hot air as a cleaning, relaxing or reducing agent, and all restrooms, changing rooms and bathrooms used in connection with such rooms, shall be constructed with materials impervious to moisture, bacteria, mold and fungus growth. Floor-to-wall and wall-to-wall joints shall be constructed so as to provide a sanitary cove with a minimum radius of 3/8 inch.

Subd. 2 Public Restroom Requirements. All public restrooms shall be provided with mechanical ventilation with 2 cfm (cubic feet per minute) per square foot area, a minimum of 15 foot candles of illumination, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels with dispensers and soap with dispensers.

Subd. 3 Requirements for Janitor's Closet. Each such operation shall have a janitor's closet for the storage of cleaning supplies with a mop sink, mechanical ventilation with 2 cfm per square foot area and a minimum of 15 footcandles of illumination.

Subd. 4 Lockers. Individual lockers shall be provided for use by customers and shall have separate keys for locking.

1341.15 Maintenance; Sanitary Conditions; Communicable Disease.

Subd. 1 Clean and Sanitary Business. All businesses licensed under this Section at all times shall be kept in a clean and sanitary condition.

Subd. 2 Clean and Sanitary Instruments. All instruments and mechanical, therapeutic, and bathing devices or parts that come into contact with the human body at all times shall be kept clean and sanitary.

Subd. 3 Towels and Linens. No towels and linens furnished for use by one patron shall be furnished for use by another until thoroughly laundered.

Subd. 4 Hand Washing. All individuals who practice massage shall wash their hands before each massage.

Subd. 5 Communicable Disease. No person suffering from a communicable disease shall work or be employed in a licensed business. No person suffering

from a communicable disease to the knowledge of the owner, custodian, or employees of a licensed business shall be accommodated as a patron.

1341.16 Inspection. Each business required to be licensed shall at all times be held open for inspection by duly authorized representatives of the City.

1341.17 Barber Shops and Beauty Salons Exempted. Barber shops and beauty salons which do not give, or hold themselves out to give, massages, other than are customarily given in such shops and salons for the purpose of facial beautification only shall not be subject to the provisions of this Section.

Section 3. Effective Date. This ordinance shall be in full force and effect upon passage and publication.

Adopted this 1st of February, 2000.

Attest

City Clerk

Mayor

Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Ordinance No. 2000-1 adopted.

ORDINANCE NO. 2000-02, ADOPTED WITH WAIVER OF SECOND READING, AMENDING SECTION 140 - HUMAN RELATIONS COMMISSION Manager Hughes explained the proposed ordinance was needed to bring the City's Code into compliance with Minnesota Statutes. He added the Human Relations Commission has reviewed the proposed ordinance and recommends the Council adopt the amendment.

Member Hovland introduced the following Ordinance, and moved its adoption waiving second reading:

**EDINA ORDINANCE NO. 2000-2
AN ORDINANCE AMENDING SECTION 140 OF THE EDINA
CITY CODE BY INCLUDING "SEXUAL ORIENTATION" AS
A DISCRIMINATORY ISSUE**

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. Paragraph B of Subsection 140.01 of the Edina City Code is hereby amended to read as follows:

"B. Secure for all of the residents of the City freedom from discrimination because of race, color, creed, religion, age, sex, sexual orientation or national origin in connection with employment, housing and real property, public accommodations, public services and education."

Section 2. Effective Date. This ordinance shall be in full force and effect upon passage and publication.

Adopted this 1st of February, 2000.

Attest:

City Clerk

Mayor

Member Faust seconded the motion.

Rollcall:

Ayes; Faust, Hovland, Kelly, Maetzold

Ordinance No. 2000-2 adopted.

ORDINANCE NO. 2000-03, ADOPTED, AMENDING SECTION 460 - SIGN REGULATIONS Planner Larsen explained that the proposed amendment to the City's code would amend the sign regulations. He noted that staff believes the regulations relative to churches, schools, golf courses and public buildings may be more restrictive than necessary. Current regulations allow one sign of not more than 24 square feet. This necessitates several entities to request temporary signs. Mr. Larsen stated the proposed amendment to the sign regulations should allow for better communication and reduce the number of temporary sign requests.

Mr. Larsen explained the second portion of the amendment dealt with the definition of a clear view. He noted that the current definition is ambiguous whether it can be allied to any intersection of a driveway and street. The new definition clarifies the applicability.

Following a brief discussion **Member Kelly introduced the following Ordinance, and moved its adoption waiving second reading:**

EDINA ORDINANCE NO. 2000-3

**AN ORDINANCE AMENDING SECTION 460 OF THE CITY CODE
TO PROVIDE FOR ADDITIONAL SIGNS FOR CHURCHES, SCHOOLS,
GOLF COURSES AND PUBLIC FACILITIES; AND TO REVISE
THE DEFINITION AND REGULATIONS FOR THE CLEAR VIEW ZONE**

THE CITY OF THE CITY OF EDINA ORDAINS:

Section 1. Subd. 1 of Subsection 460.05 of the City Code is amended by adding the following regulations:

<u>Type</u>		<u>Maximum Number</u>	<u>Maximum Area</u>	<u>Maximum Height</u>
Building Identification (churches, schools, golf courses, public facilities only)	Wall:	1 Per Building	24 sq. ft.	N/A
	Freestanding:	1 Per Frontage	36 sq. ft.	8 ft.

Section 2. Subd. 2 of Subsection 460.02 of the City Code is amended by revising the following definition:

Clear View Zone. A triangle formed by connecting the three following points: the point of intersection of the extensions of the curb lines or edge of the traveled portion of each street or drive aisle, and a point on each curb line 30 feet from the aforementioned point of intersection.

Section 3. Subd. 3, D. of Subsection 460.03 of the City Code is amended by revising the following regulation:

D. No sign shall be erected or placed in the clear view zone. Provided, however, that a freestanding sign may be erected if:

1. At least ten feet of clearance is maintained between the ground and the bottom of the sign and the sign is supported by a single pylon of 12 inches or less in diameter,
2. The sign and all supporting materials do not exceed three feet in height as measured from the highest point on the curb to the highest point on the sign, or
3. The sign is not placed within the street right-of-way.

Section 4. Effective Date This ordinance shall be in full effect upon passage and publication according to law.

Adopted this 1st day of February, 2000.

Attest: _____

City Clerk

Mayor

Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Ordinance No. 2000-3 adopted.

***BID AWARDED FOR MOBILE JACOBSEN LAWN MOWER AND ROAD LITE KIT (PARK AND RECREATION)** Motion made by Member Hovland and seconded by Member Kelly for award of bid for mobile Jacobsen lawn mower and road lite kit for Park and Recreation to recommended bidder, North Star Turf under State Bid Contract #424508 at \$61,414.29.

Motion carried on rollcall vote - four ayes.

COMMUNITY CENTER PROJECT PRESENTED Manager Hughes reviewed the January 24, 2000, meeting attended by Members Hovland, Kelly, and himself with Phyllis Kohler, Frank Bennett and Ken Dragseth of the School District. He noted that the City and Edina School District have undertaken a study to determine the feasibility of constructing new recreational facilities and renovating others for use by the entire community. If this proves feasible then consensus was an election would need to be held before June 13, 2000, the project scope needs definition, and that the School Board and City Council need to hold a joint meeting. Mr. Hughes stated he believes the City should draft a memo of understanding for facilities' operation. In his opinion the issues facing the Council included: whether they want to undertake a referendum; if a referendum is held, what elements of the project should be included; and the timing of a referendum (Spring 2000, Primary or General Elections of 2000, or Spring 2001). He concluded that it would be recommended that a public opinion survey be completed with results presented to the Council by early March 2000.

The Council discussed the various aspects of holding an election. They will be considering whether to: construct a new fieldhouse at the Community Center; improve existing

gymnasiums, gymnasium support space and theater in the Community Center; renovate Kuhlman Field; improve the tennis courts and athletic fields at Edina High School; improve the gymnasium at South View Middle School; and construct an addition at Concord Elementary School that would contain a gymnasium and storage space. Also discussed was the possibility of including a question regarding the potential operating costs of a new Senior Center; who pays for expense of conducting election; and allocation of operating costs for new and expanded facilities.

The following concerns were expressed: inclusion of items that could not be used by the City (four classrooms at Concord School and Kuhlman Field); timing of the referendum; the locations proposed for additional gymnasiums; making sure that any and all components included in a potential referendum are legal; the referendum's effect on the City's bond rating; use of artificial turf; and new operating costs.

Following the discussion, February 15, 2000, 5:00 P.M., was set for a joint meeting between the School District and the Council. In addition, the Council directed staff to proceed with a public opinion poll as quickly as possible. Mr. Hughes indicated that staff would work with the School District to have Decision Resources perform the poll.

***RESOLUTION ADOPTED APPROVING PUBLIC AUCTION OF TAX FORFEITED PROPERTIES** Member Hovland introduced the following resolution seconded by Member Kelly and moved its adoption:

RESOLUTION NO. 2000-18

WHEREAS, the City Council of the City of Edina has received from the County of Hennepin a list of lands in said municipality which became the property of the State of Minnesota for non-payment of property taxes, which said list was dated December 6, 1999, Non-Conservation Classification List 1114NC.

WHEREAS, the parcels in said list identified as PID 06-116-21-13-0002, PID 28-117-21-21-0024 and PID 30-028-24-22-0036, have heretofore been classified by the Board of County Commissioners of Hennepin County, Minnesota, as non-conservation land the sale thereof and has heretofore been authorized by said Board of County Commissioners; and

WHEREAS, it has been determined by the Edina City Council that there are no existing or pending special assessments on said parcels; and

WHEREAS, it has been determined by the Edina City Council that said parcels need not be withheld from sale pursuant to M.S. 85.012; M.S. 92.461; M.S. 282.01, Subd. 8.; M.S. 282.018, Subd. 1; or M.S. 282.018, Subd. 2;

NOW, THEREFORE BE IT RESOLVED by the Edina City Council that the said classification is hereby approved.

BE IT FURTHER RESOLVED by the Edina City Council that, acting pursuant to Minnesota Statutes 282.01, Subd. 7a, it has determined that said parcels of land are not

buildable according to the City's Zoning Ordinance and that sale of said parcel be limited to the adjacent properties for attachment thereto.

Adopted this 1st day of February, 2000.

Motion carried on rollcall vote - four ayes.

REQUEST RECEIVED FROM 50TH & FRANCE BUSINESSES FOR "LOADING ZONE"

Engineer Hoffman noted that Pinehurst Development Company was scheduled to begin a large construction project along the Minneapolis side of France Avenue, February 13, 2000. He noted that the construction will impact several area businesses because of both construction traffic and some temporary closures to traffic lanes on France Avenue. Because of their concern several area businesses submitted a request for the installation of "Loading Zone" signs on the Edina side of France. Mr. Hoffman explained that the Traffic Safety Committee had reviewed the issue and had made eight recommendations. He added the recommendations had been reviewed with Marty Rud and Lee Weisman, both board members of the 50th and France Association. Mr. Hoffman outlined the following eight staff recommendations:

1. No signage, etc., directing truck traffic northbound on France Avenue, south of W. 51st Street to go west on W. 51st Street and then back east on W. 50th Street.
2. No separate signal phase for east/west traffic on W. 50th Street at France Avenue. Use together with left turn bans as needed.
3. "No Left Turns" posted for both eastbound and westbound W. 50th Street traffic at France Avenue.
4. Cut angle on barricades on northeast corner of W. 50th Street and France Avenue to allow for access and better turn movements westbound to northbound.
5. Cut width/angle of barricades on east side of France Avenue at W. 49 ½ Street to allow for left turn northbound to westbound and thru lane.
6. Have a loading zone on west side of France Avenue just south of W. 49 ½ Street as exists today modified for certain construction events.
7. Remove parking slots on east side of France Avenue from W. 49 ½ Street north for an additional two spaces to facilitate movement northbound.
8. Remove parking on France Avenue between 49th and 49 ½ Street from 2/15/00 to 10/1/00.

The Council briefly discussed the disruption that will be caused by the Pinehurst construction project. Mr. Hoffman estimated that project will begin in February and be completed sometime in October.

Public Comment

Marty Rud, 6222 France Avenue South, stated he has reviewed the situation with Edina staff, Minneapolis staff and the Contractor. Mr. Rud said he believed the Edina recommendations are a workable plan. He noted that as things move along some changes might be needed, but added that Pinehurst has been a responsible contractor with experience working in the 50th and France Area. Mr. Rud urged the Council approve the staff recommendations.

Lee Weisman, 4229 Chowen Avenue, noted that the plan was not perfect, but he suggested they attempt to implement the recommendations. Mr. Weisman said the Association and businesses want to see the project proceed.

Member Faust made a motion to accept the previously stated recommendations of the traffic safety committee and authorize their implementation. Mayor Maetzold seconded the motion.

Ayes: Faust, Hovland. Kelly, Maetzold

Motion carried.

ENTERPRISE FUND FINANCIAL OVERVIEW PRESENTED Assistant Manager Anderson reviewed the Enterprise Fund Financial Overview. He explained that the City's enterprise funds are:

- The City's "business oriented" operations that are accounted for in separate funds.
- Previous City Councils had the philosophy that enterprise operations should be funded through user fees. Where feasible, the user should pay for the cost of operations.
- Each quarter the City's Investment Advisory Committee reviews operations of the funds and has annual reviews of 5 year plans with the enterprise managers.
- Investment Advisory Committee operates with three goals in mind:
 1. Maximize the profits of the Liquor Operation
 2. Devise strategy to support enterprises that are in need of subsidy
 3. Develop long-term plan to eliminate accumulated cash deficits in funds, where they exist
- The Investment Advisory Committee is comprised of: City Manager, Assistant City Manager, Finance Director (Chair), Assistant Finance Director and Park Director.

Mr. Anderson noted that the Edina's nine current enterprise funds represent approximately \$24 million in annual revenue and include:

1. Three Municipal Liquor Stores (York Avenue, Grandview & 50th Street)
2. Utilities (water and sewer)
3. Braemar Arena
4. Art Center
5. Edinborough/Centennial Lakes
6. Braemar & Fred Richards Golf Courses
7. Golf Dome
8. Aquatic Center
9. *Communications (special revenue fund)*

He individually reviewed each of the enterprises answering questions such as:

- General Overview of Operations - What Do They Do?
- Major Sources of Revenue
- 1999 Estimated Revenues and Expenditures (unaudited)
- 3 Year Analysis of Profit (or loss)
- Sources of Funds for Capital Improvements

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- Other Business Issues
- Summary of '99 operations:

Profitable Enterprises:

Liquor	\$900,000
Utilities	\$540,000
Golf	\$230,000
Pool	\$170,000
Dome	\$ 67,000

Near Breakeven:

Arena	\$(13,000)
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In Need of Subsidy:

Edinborough/Centennial Lk	\$(170,000)
Art Center	\$ (92,000)

Current Philosophy for Use of Funds:

Subsidize Art Center/Reduce Cash Def.
Pay for Utility Improvements
Repay Accumulated Cash Deficit
Repay Loan from Developer's Fund
Subsidize Arena Operations

Try to breakeven

Rely on Trust fund/seek alternate rev.

Rely on Liquor profits

Mr. Anderson stated that goals for the City's Enterprises included:

- Eliminating accumulated cash deficits through transfers
- Putting enterprises in a position where we do not create accumulated deficits in the future; and
- Establishing a permanent funding vehicle for enterprises requiring subsidy

The Council briefly discussed strategies for improving performance of the various enterprises. Staff will periodically report on enterprise funds to Council.

CLAIMS PAID Motion made by Member Kelly approving payment of the following claims as shown in detail on the Check Register dated January 27, 2000, and consisting of 30 pages: General Fund \$260,209.06; Communications \$24,764.34; Working Capital \$6,825.92; Art Center \$16,811.83; Golf Dome Fund \$11,180.93; Golf Course Fund \$16,477.71; Ice Arena Fund \$2,770.73; Edinborough/Centennial Lakes \$16,011.52; Utility Fund \$278,157.57; Storm Sewer Utility Fund \$988.80; Liquor Dispensary Fund \$161,443.77; Construction Fund \$14,414.72; TOTAL \$810,056.90. Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Maetzold adjourned the Council Meeting at 9:55 P.M.

City Clerk